Supreme Court, U.S.
FILED

98 18 98 MAY 25 1998

No.

IN THE

Supreme Court of the United States

ADLISA JOHNSON,

Petitioner,

v.

ROBERT E. RUBIN, *et al.*,

Respondents.

On Petition for a Writ of Certiorari to the United States Court of Appeals for the Eleventh Circuit

PETITION FOR A WRIT OF CERTIORARI

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QUESTIONS PRESENTED

1. Whether the granting of a motion for summary judgment based on a statute of limitation undermines the rights of a party that fails to timely file a complaint because of his or her reliance of the action or inaction of the EEOC or the adverse party.

2. Whether the granting of a motion for summary judgment violates the due process clause of the Fourteenth Amendment and the standards of fair play established by the due process clause where the court arbitrarily clues the opposing party onto the issues to bring before it for summary judgment, and then construe all facts and inferences of the case in favor of such party.

PARTIES TO THE PROCEEDING

In addition to the parties named in the caption, The Internal Revenue Agency (IRS), The Equal Employment Opportunity Commission (EEOC).

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Petitioner, Adlisa Johnson, respectfully requests that a writ of certiorari be issued to review the judgment of the United States Court of Appeals for the Eleventh Circuit in this case.

OPINIONS BELOW

The opinion of the United States Court of Appeals for the Eleventh Circuit is not published, but can be found at App. A. The opinion of the district court is not published, but can be found at App. B.

STATEMENT OF JURISDICTION

The judgment of the United States Court of Appeals for the Eleventh Circuit ("Court of Appeals") was entered on November 25, 1998. The Court of Appeals denied a timely petition for rehearing on February 24, 1999 (App. C).

The jurisdiction of this court is invoked under 28 U.S.C. § 1254(1).

CONSTITUTIONAL AND STATUTORY PROVISIONS INVOLVED

The Fourteenth Amendment to the United States Constitution provides in relevant part: "No person shall . . . be deprived of life, liberty, or property, without due process of law; Nor shall a state deny anyone in its jurisdiction the equal protection of the laws."

Additionally, Title VII of the Civil Rights Act of 1964 (As amended) and 42 U.S.C. § 2000e, *et seq.*, is contrary to discrimination in the workplace.

The Code of Federal Regulations (C.F.R.) Part 1614 provides in part: This rule revises the way that federal agencies will process administrative complaints and appeals of employment discrimination filed by federal employees.

STATEMENT OF THE CASE

The distinguishing characteristic and fundamental question in this case is whether equitable modification should be applied when a litigant files an appeal to the EEOC with fifty-eight (58) days remaining from a Final Agency decision (FAD) letter to exercise her options, wherein, the letter received on August 19, 1995, informed the petitioner, that she had the right to: (1) appeal the decision of the Respondent to EEOC within 30 days of receipt of the FAD letter and; or (2) file a civil action within 90 days of receipt of the FAD letter, of course, it is now history that the EEOC received the appeal on day thirty-two (32). What is interesting about this ordeal, is the fact, the EEOC sent no notice to petitioner advising her of any fatal error on her part. However, the EEOC did respond after 168 days of receipt of the appeal and dismissed it as untimely. The dismissal of appeal letter on March 7, 1996 stated that petitioner had "the right to: (1) petition the EEOC to reconsider its dismissal of petitioner's appeal; or (2) file a civil action in United States District Court within 90 days of receipt of the dismissal letter". This dismissal of appeal letter was sent to both, petitioner and her attorney. On April 6, 1996, petitioner's attorney filed a timely motion for reconsideration with EEOC. However, before a decision was made on petitioner's motion for reconsideration, petitioner, acting *pro se* on the exhortation of the EEOC, on April 10, 1996, filed a Title VII action in United States District Court.

THE PROCEEDINGS BELOW

On June 7, 1995 an Administrative Law Judge (ALJ) issued a decision finding that petitioner was harassed and discriminated against by respondents on her retaliation claim, but found no discrimination on petitioner's performance evaluation claims, however, and understandably, the self-serving agency found no discrimination on all claims. On August 19, 1995, petitioner's attorney received the FAD letter from the agency. The EEOC, after the elapse of 168 days the EEOC allege that it received the appeals two days outside the time that it allows for appeal and dismissed the case. On April 6, 1996, petitioner's attorney filed a motion for reconsideration. On April 10, 1996, petitioner, acting *pro se,* filed in district court. On June 3, 1996, petitioner received from the EEOC advising the agency of mandatory corrective action on petitioner's appeal. This action controverts the respondent's position as a matter of law, because, henceforth, the EEOC's final decision was not issued until January 6, 1997, all of this was brought to the court's attention in "PLAINTIFF'S RESPONSE TO DEFENDANT'S THIRD MOTION FOR SUMMARY JUDGMENT." On June 21, 1996, respondents filed a motion to dismiss or, in the alternative, for summary judgment against petitioner contending that district court lacked jurisdiction because petitioner had failed to exhaust her administrative remedies because her appeal was pending before the EEOC. As a result, the district court denied respondent's motion to dismiss. On July 24, 1996, respondents filed a second motion to dismiss or in the alternative, for summary judgment against petitioner, again, erroneously arguing the wrong issues. Notwithstanding, before denying the respondent's motion, the judge informed the respondents of the issue to raise in order to get their motion granted in his January 14, 1997 order. On July 10, 1997, respondents filed their third motion for summary

judgment against petitioner. On September 30, 1997, the magistrate judge, in an attempt to bring her *coup de grâce* to this case while ignoring credible evidence in the petitioner's timely filed objections on October 10, 1997, recommended the granting of summary judgment for the respondents. On November 28, 1997, Judge Willis B. Hunt, Jr., signed his order granting respondents summary judgment. On December 2, 1997, judgment was entered against petitioner for cost for this action. On December 4, 1997, petitioner filed her timely notice of appeal. On November 25, 1998, the Eleventh Circuit issued an unpublished opinion, affirming the district court's decision. On January 11, 1999, petitioner filed a timely petition for rehearing. On February 24, 1999, the court of appeals denied the petition for a rehearing.

In light of all the aforementioned, one can get the distinct impression that, there is no remedy; ignore the United States Constitution and forget the Fourteenth Amendment; tolerate racial discrimination, or you pay; and last but not least, appeal to another governmental agency and the window will close to further action, if not, we will pretend that it did. The petitioner has since filed a petition *en banc,* for a writ of mandamus because in these subsequent on-going discrimination cases, Judge Hunt has demonstrated that he is bias and not a detached adjudicator, his orders include an interpolation of words the litigant did not say and ignores contradictory affidavits, refuting depositions, and credible evidence, in an effort to dismiss the case.

REASONS FOR GRANTING THE WRIT

I.

THE PETITION SHOULD BE GRANTED BECAUSE THE OPINIONS IN THE LOWER COURTS ARE NOT CONSISTENT WITH THIS COURT'S VIEW ON THE ESSENTIAL DUE PROCESS AND EQUAL PROTECTION RIGHT OF A LITIGANT OR ITS OWN PRIOR RULINGS.

Ms. Johnson's petition for writ of certiorari should be granted because the opinions of the lower courts conflicts with this Court's prior rulings on a litigant's rights to equal protection and due process of the law. Racial discrimination was the major target of the Fourteenth Amendment as well as the Civil Rights Act of 1964. The merits of this case warrants special consideration of the non-moving party, *i.e.*, evidence and factual inferences arising therefrom are to be viewed, "in the light and with all reasonable inferences most favorable to the non-moving party." *Adickes v. S.H. Kress & Co.* 398 U.S. 144, 157 (1970).

The district court and the EEOC was well aware that petitioner had 58 days remaining, if she just wanted to go to district court, instead, under the C.F.R., she relied on the EEOC to deal with her charges, as stated earlier, this was one of her options. The EEOC after receiving this timely appeal gave petitioner no indication that she would commit a fatal error if she did not go to district court, in fact she did not hear from the EEOC until after 168 days to inform her of filing an untimely appeal and they did give her other options, *i.e.*, 90 days to file in district court or petition the EEOC for a reconsideration. The tolling modification would not have

prejudiced the respondent. After all, they have two subsequent complaints, alleging retaliation for the filing of the instant case.

When the district court judge informed the respondents of what issue to bring, it was not clear at that juncture whether the judge was bias, it only exhibited a lack of judicial restraint. It was the second case that made his bias clear and convincing, and that he was not a detached adjudicator. The Eleventh Circuit has made prior rulings with respect to equitable tolling, it ruled in the case of *Milam v. United Postal Service*, 674 F.2d 860 (11th Cir. 1989) and petitioner submits that her situation falls within the category of "the employee justifiably relying on misinformation regarding the nature of her rights under Title VII." This makes the instant ruling inconsistent.

The EEOC compliance manual in § 4.3(b)(1) states clearly, that it will not dismiss an untimely Title VII charge that clearly provides a reasonable basis for modifying the charge period. Further, it stands to reason, that Congress did not provide the option of reconsideration to undermine a litigant of their Title VII rights if the EEOC has not responded within the 90 day filing period. This Court is asked to scrutinize this case because petitioner did not receive the EEOC's final decision until January 6, 1997. Both the C.F.R. and Title VII statute provides that: "the 90-day period in which an aggrieved party may file a civil action in district court does not begin to run until the Commission takes final action." There was no express language within the dismissal letter that the dismissal letter was final, instead, it gave petitioner two options.

CONCLUSION

This Honorable Court is respectfully asked to make uniform all of the differing opinions with respect to Title VII's interpretations, since it is one statute and should be applied uniformly in all jurisdictions. By granting this writ it can also correct the Eleventh Circuit's decision that over a period of time has a tendency to stray from the norm and defies this court's views on the "law of the land." In so doing with this Court's supervision, will afford petitioner the right to address all of the other important issues of discrimination that is rife in this case.

Petitioner humbly requests at this Court's discretion that this petition for writ of certiorari be granted.

Respectfully submitted,

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APPENDIX A — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT DATED AND FILED NOVEMBER 25, 1998

IN THE UNITED STATES COURT OF APPEALS
FOR THE ELEVENTH CIRCUIT

No. 97-9328
Non-Argument Calendar

D.C. Docket No. 1:96-CV-844-WBH

ADLISA JOHNSON,

Plaintiff-Appellant,

versus

DEPARTMENT OF TREASURY, AGENCY;
ROBERT E. RUBIN, Secretary of Treasury,

Defendant-Appellee.

Appeal from the United States District Court
for the Northern District of Georgia

(November 25, 1998)

Before ANDERSON and MARCUS, Circuit Judges, and FAY, Senior Circuit Judge

PER CURIAM:

This appeal is from the granting of a summary judgment in favor of the defendant/appellee in a discrimination and

retaliation action brought under Title VII. Both the facts and the law support the conclusions reached by the district court that this action was filed untimely and that there is simply nothing to justify a tolling of the statute of limitations. We affirm the judgment of the district court for the reasons set forth in its ORDER of November 28, 1997.

AFFIRMED.

APPENDIX B — ORDER OF THE UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF GEORGIA, ATLANTA DIVISION DATED AND FILED NOVEMBER 28, 1997 AND ENTERED DECEMBER 2, 1997

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION

CIVIL ACTION FILE

NO. 1:96-CV-0844-WBH

ADLISA JOHNSON,

Plaintiff

v.

ROBERT E. RUBIN,

Defendant

ORDER

Plaintiff Adlisa Johnson claims defendant Robert E Rubin, Secretary of the Department of Treasury ("Secretary"), unlawfully discriminated against her because of her race and retaliated against her for her filing a discrimination complaint, in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. § 2000e, *et seq.*, and 42 U.S.C. § 1981. Before the Court are defendant's Third Motion for Summary Judgment [24] and the magistrate judge's Report and Recommendation thereon. Also before the Court are plaintiff's Motion to Withdraw Counsel [32],

Appendix B

Request for Extension of Time in Which to File Objections to Report and Recommendation [31], and what plaintiff incorrectly entitles the First Amendment to the Complaint [35], which, as explained below, the Court will treat as a motion to amend.

II. BACKGROUND[1]

Johnson was employed by the Department of the Treasury ("IRS") as a Supervisory Tax Examining Assistant. In January 1994, Johnson filed a formal complaint with the IRS, alleging that because of unlawful racial discrimination she received a rating of minimally successful on a performance evaluation. Johnson also alleged that her employer unlawfully retaliated against her for filing the complaint. On August 19, 1995, Johnson received a letter from the Department of the Treasury reporting the agency's finding that no discrimination and no retaliation existed in her case. The letter stated that this decision constituted the final agency decision ("FAD"), and informed Johnson that she had the right to (1) appeal the decision to the Equal Employment Opportunity Commission ("EEOC") within 30 days of receipt of the letter and, or (2) file a civil action within ninety days of receipt of the letter. The letter also stated that failure to appeal within 30 calendar days would result in the EEOC's dismissal of the claim.

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1. Unless otherwise indicated, the Court draws the undisputed facts from defendant's "Statement of Undisputed Material Facts," which, under Local Rule the Court must deem as admitted if uncontroverted by plaintiff. *See* Local Rule 56.1(B)(2) (N.D. Ga. 1997).

Appendix B

Johnson decided to appeal the decision to the EEOC. Her appeal was postmarked September 30, 1995, thirty-two days after plaintiff received the FAD letter. On March 7, 1996, the EEOC dismissed Johnson's appeal as untimely. The EEOC's dismissal of appeal letter stated that Johnson had the right to (1) petition the EEOC to reconsider its dismissal of appeal or (2) file a civil action within ninety days of receipt of the dismissal letter. After receiving the letter, Johnson filed for reconsideration on April 6, 1996, and also filed this action on April 10, 1996. Filing of the instant action terminated the EEOC's process of the petition for reconsideration.

Motion to Withdraw Counsel and Request for Extension of Time to File Objections

Pursuant to Rule 83.1(E), M.P. Schlidmeyer, Johnson's attorney in this matter, seeks to withdraw from this action at Johnson's request. The Court grants the Motion to Withdraw and orders plaintiff to advise the Court as to the name and address of newly retained counsel or, alternatively, as to whether she will be proceeding *pro se*. In the process of filing for withdrawal, Johnson's attorney moved for a time extension in which to file objections to the magistrate judge's Report and Recommendation. Because plaintiff has *pro se* filed objections to the Report and Recommendation within the time specified by Local Rule, plaintiff's Request for Extension of Time to File Objections is denied as moot.

Appendix B

Motion to Amend Complaint

Plaintiff seeks to amend her complaint under a provision of Federal Rule of Civil Procedure 15(a) that allows a party to amend its complaint once as a matter of course before responsive pleadings are served. *See* Fed. R. Civ. P. 15(a). Plaintiff believes that her amendment falls within this provision; however, she is incorrect for two reasons. First, defendant has already served its responsive pleadings and, second, plaintiff has previously amended her complaint as a matter of course. Under these circumstances, plaintiff may amend her complaint only upon leave of the court or with the written consent of the adverse party. *See* Fed. R. Civ. P. 15(a). Because plaintiff is proceeding *pro se* at this time, the Court will treat this wrongly titled filing as a motion to amend. However, upon reviewing the proposed amendments, it appears to the Court that plaintiff is confusing this case with related case, 1:96cv3344, that plaintiff also filed against this same defendant. Accordingly, the Court denies plaintiff's request for leave to amend her complaint in this action.

Motion for Summary Judgment

If no objections are filed to the magistrate judge's Report and Recommendation, it is reviewed for plain error only. *United States v. Slay*, 714 F.2d 1093, 1095 (11th Cir. 1983), *cert. denied*, 464 U.S. 1050 (1984). If objections are filed, the Court must conduct a *de novo* review. *Nettles v. Wainwright*, 677 F.2d 404, 409 (Former 5th Cir. Unit B 1982). In this case plaintiff objects to the magistrate judge's recommendation that the Court grant summary judgment

in favor of defendant because Johnson failed to file this action within ninety days of the FAD letter received August 19, 1995. The Court has reviewed *de novo* the entire file and has carefully considered Johnson's objections.

Under Federal Rule of Civil Procedure 56, a court shall grant a motion for summary judgment if there are no genuine issues of material fact and the moving party is entitled to judgment as a matter of law. Fed. R. Civ. P. 56(c). Where the nonmoving party bears the burden of proof at trial, the moving party must demonstrate to the Court that "there is an absence of evidence to support the nonmoving party's case," *Celotex v. Catrett*, 477 U.S. 317, 325, 106 S. Ct. 2548, 91 L. Ed. 2d 265 (1986), or must put forth affirmative evidence negating an element of the nonmoving party's case, *Fitzpatrick v. Atlanta*, 2 F.3d 1112, 1116 (11th Cir. 1993). It is then the responsibility of the nonmoving party, by revealing evidence outside of the pleadings, to show that evidence supporting its case does exist or that the element sought to be negated remains a genuine issue of material fact to be tried. *Id.* Essentially, this requires the nonmoving party to come forward with evidence sufficient to withstand a directed verdict on this issue at trial. *Id.* at 1116-17.

The nonmoving party is not required to carry its burden of proof at the summary judgment stage. In analyzing the motion, the Court views the facts in the light most favorable to the nonmoving party and makes all factual inferences in favor of that party. *Hairston v. Gainesville Sun Publishing Co.*, 9 F.3d 913, 918 (11th Cir. 1993). "The court must avoid weighing conflicting evidence or making credibility determinations." *Id.* at 919. "Where a reasonable fact finder

may draw more than one inference from the facts, and that inference creates a genuine issue of material fact, then the court should refuse to grant summary judgment." *Id.* (quoting *Barfield v. Brierton*, 883 F.2d 923, 933-34 (11th Cir. 1989)).

Defendant argues that he is entitled to summary judgment as a matter of law because plaintiff's complaint is time barred in that she failed to initiate this civil action within ninety days of her receipt of the FAD letter. An employee of the federal government is statutorily required to bring a civil claim of employment discrimination within "90 days of receipt of notice of final action taken by a department, agency, or unit . . . or by the Equal Employment Opportunity Commission upon an appeal from a decision or order of such department, agency or unit." 42 U.S.C. § 2000-16(c) (1994). When an employee sues her federal employer the progression of the suit requires that she first seek relief within the agency that allegedly discriminated against her. *Brown v. General Services Administration*, 425 U.S. 820, 96 S. Ct. 1961, 48 L. Ed. 2d 402 (1976). If not satisfied with the agency's final decision, the employee may then either pursue her claim by filing an appeal to the EEOC or by directly filing suit in district court. *Id.*; 42 U.S.C. § 2000e-16(c). If an appeal is taken to the EEOC, the employee does not lose the right to bring suit; she may file suit in district court within 90 days of the EEOC's final decision. *Id.* Here, Johnson believes she has followed this scheme. She first complained to the agency which employed her, the Department of the Treasury. After receiving the agency final decision on August 19, 1995 she then appealed to the EEOC, and upon receiving what she believed to be

the EEOC's final decision, brought suit. The Secretary contends that because Johnson never perfected her appeal, she lost the ability to bring suit ninety days after the EEOC dismissal. This argument turns on the contention that dismissal due to untimeliness does not operate as a final decision of the EEOC because the merits of the appeal were never properly before it. Johnson counters with two arguments: first that EEOC final action did not occur until the EEOC terminated her reconsideration request and, second, that equitable concerns require tolling under the facts of this case.

Clearly, Johnson's first argument is without merit. Filing for reconsideration by the EEOC regardless of the outcome, does not affect the time for filing a civil complaint. *See Paetz v. United States*, 795 F.2d 1533, 1536 (11th Cir. 1986); *see also Martinez v. Orr*, 738 F.2d 1107, 1109 (10th Cir. 1984); *Mahroom v. Defense Language Institute*, 732 F.2d 1439, 1440 (9th Cir. 1984); *Birch v. Lehman*, 677 F.2d 1006, 1007-08 (4th Cir. 1982), *cert. denied*, 459 U.S. 1103, 103 S. Ct. 725, 74 L. Ed. 2d 951 (1983). Johnson's second argument, however, requires greater consideration. The statute of limitations imposed by 42 U.S.C. § 2000e-16(c) for filing civil actions is subject to equitable tolling. *See Milam v. United States Postal Service*, 674 F.2d 860, 862 (11th Cir. 1982). Tolling is appropriate in cases in which (1) a state court action is pending; (2) the defendant conceals an act supporting the Title VII cause of action; or (3) the employee justifiably relies on misinformation regarding the nature of her rights under Title VII. *Sims v. Trus Joist MacMillan*, 22 F.3d 1059, 1061 (11th Cir. 1994) (concluding that plaintiff justifiably relied upon EEOC right

to sue letter where the EEOC informed plaintiff that it would not be able to process his claim within the statutorily required time); *Washington v. Ball*, 890 F.2d 413, 414 (11th Cir. 1989) (setting out three prong test). Johnson argues here that the EEOC letter dismissing her appeal mislead her about her rights to file civil suit. The dismissal letter contained a right to sue notice, stating that "[i]t is the position of the Commission that you have the right to file a civil action in an appropriate United States District Court within ninety (90) calendar days from the date that you receive this decision."

In *Moorer v. Brady*, 1993 WL 304464 (6th Cir. Mich), the Sixth Circuit found that a similar right to sue notice equitably tolled the operative statute of limitation. There, like here, the EEOC dismissed the plaintiff's appeal against the IRS as untimely. *Id.* The EEOC dismissal letter in *Moorer* stated that plaintiff had thirty days in which to appeal. Relying on this information, plaintiff filed suit and defendant moved for dismissal on grounds that the action was time barred. The court held that the statute of limitations was tolled, and thus allowed the suit to proceed. *Id.* While the *Moorer* case looks, at first blush, directly on point, it is distinguishable from the instant case. In *Moorer* the plaintiff received his EEOC dismissal letter while he still had fourteen days in which to file suit under the ninety day post final agency decision window. The critical difference between this case and *Moorer* is that there the plaintiff still had time in which to file a civil action under the agency decision. If the plaintiff in *Moorer* received an EEOC dismissal letter not containing a right to sue notice, he still would have been able to file suit, as long as he did so within

the fourteen days remaining in the final agency decision window. Because plaintiff relied upon the notice contained in the EEOC dismissal letter he missed the filing date by sixteen days. Here, however, Johnson lacked an independent right to sue — the window allowing suit ninety days after the agency's final decision had expired long before she received the EEOC dismissal letter. In *Moore*, the EEOC dismissal letter did not create a right, it simply confused Moore as the extent of his existing right. By contrast, Johnson's right to file suit had already expired when she received the EEOC dismissal letter, and, however erroneous the letter may have been, it caused her no prejudice. Of course, if plaintiff had timely appealed the agency decision to the EEOC, then, upon the EEOC's final decision with regard to the appeal, plaintiff would have had ninety days in which to file her civil suit.

Plaintiff had earlier argued that the Court should in this case equitably toll the thirty day time requirement for her appeal to the EEOC.[2] If the Court did so, the appeal would properly be before the EEOC, and after its decision on the merits, Johnson would have ninety days in which to file suit. According to plaintiff's attorney, plaintiff's EEOC appeal was untimely filed because the attorney was working under the incorrect assumption that the stated time for appeal allowed an additional three days for mailing. The Court rejects any contention that the time frame in which to file the EEOC appeal should be tolled. First, plaintiff was represented by counsel, who should have known the

2. Because it was not relevant to the discussion then at hand, the Court refused to address this argument in its Order regarding defendant's first motion to dismiss.

applicable law regarding filing of EEOC appeals. Thus, plaintiff's attorney's misconception is at most excusable neglect, which is not a basis for tolling a statute of limitations. *Cf. Irwin v. Department of Veterans Affairs*, 498 U.S. 89, 96, 111 S. Ct. 453, 458, 112 L. Ed. 2d 435 (1990). Second, and more importantly, the EEOC's dismissal was neither unconstitutional, arbitrary, or capricious and where, as is the case with the EEOC, Congress grants broad authority to an administrative agency, a court should hesitate before stepping in and judicially reviewing routine agency decisions. *Cf. Babbitt v. Sweet Home Chapter of Communities for a Great Oregon*, 515 U.S. 687 (1995).

III. CONCLUSION

For the reasons stated above, the Court GRANTS the plaintiff's Motion to Withdraw [32] and ORDERS plaintiff to advise the Court as to the name and address of newly retained counsel, or, alternatively, as to whether she will be proceeding *pro se*. The Court DENIED AS MOOT plaintiff's Motion for Extension of Time to File Objections [31] and DENIES plaintiff's First Amendment to the Complaint [36]. The Court GRANTS the defendant's Third Motion for Summary Judgment [24].

It is so ORDERED this 28 day of November, 1997

s/ Willis B. Hunt, Jr.
Willis B. Hunt, Jr.
Judge, United States District Court

APPENDIX C — ORDER OF THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT DENYING PETITION FOR REHEARING DATED AND FILED FEBRUARY 24, 1999

IN THE UNITED STATES COURT OF APPEALS FOR THE ELEVENTH CIRCUIT

No. 97-9328

ADLISA JOHNSON,

Plaintiff-Appellant,

versus

DEPARTMENT OF TREASURY, AGENCY;
ROBERT E. RUBIN, Secretary of Treasury,

Defendant-Appellee.

On Appeal from the United States District Court for the Northern District of Georgia

BEFORE: ANDERSON and MARCUS, Circuit Judges, and FAY, Senior Circuit Judge.

PER CURIAM:

The petition(s) for rehearing filed by the Appellant, Adlisa Johnson, is denied.

ENTERED FOR THE COURT:

s/ [illegible]
SENIOR UNITED STATES CIRCUIT JUDGE